

REMARKS

This is in response to the Office Action mailed October 1, 2001, in the above identified application, which application is related to candles or lamps comprising a solid fuel element, a wick, and a heat conductive container for said fuel element, wherein the container is configured so as to cause melted fuel to flow to the wick, and wherein said heat conductive container further comprises heat conductive elements to channel heat from a flame upon the wick to the container to cause said fuel element to more rapidly melt. In response to said Office Action, Applicants have herewith amended certain Claims of the application so as to overcome all objections and rejections applied by the Examiner. In light of the amendment of said Claims, and in view of the remarks which follow, Applicants request reconsideration of this application, and an early notification of the allowance thereof.

It is noted that the Information Disclosure Statement filed June 4, 2001, failed to comply with 37 CFR 1.98(a)(3) for failure to provide an explanation of those references not in the English language. Applicants thank the Examiner for pointing this out, and for placing said Information Disclosure Statement in the file, even though not considered. Enclosed herewith is a Supplemental Disclosure Statement further citing the same references, but enclosing therewith translations of each of the four references cited therein. It is submitted that the submission of translations of said references satisfies the requirements of 37 CFR 1.98(a)(3). The appropriate fee under 37 CFR 1.17(p) accompanies this response. Entry of the Supplemental Information Disclosure Statement, and consideration of the references cited therein, are solicited.

The Examiner has objected to Claim 13, as being dependent upon itself. Claim 13 has now been cancelled in view of incorporation of the limitations thereof into independent Claim 12.

The Examiner has also objected to Claims 10, 11, 14, and 15, as being dependent upon a rejected base Claim, but allowable if rewritten in independent form. Applicants appreciate this indication of allowable subject matter, and have amended the Claims of this application in accordance therewith, so as to incorporate those limitations indicated by the Examiner as having patentable merit into all remaining Claims of the application.

The Examiner has rejected Claims 16 and 17 under 35 USC 102(b) as anticipated by Oesterle *et al.* The Examiner has stated that the Oesterle *et al.* reference discloses the consumable wick, and a bump (3) engaging said wick. Applicants take exception to the Examiner's interpretation of the teachings of the reference, as will be set forth more fully hereinafter, but have amended Claim 16 so as to clearly distinguish over the reference. In summary, the examiner has misinterpreted the use, purpose and intent of the projection 3 set forth by the patentee, referring to this "tapered central body projection 3" (as defined by the patentee at Column 2, lines 5-6) as a "starter bump". It is to be noted that the "bump, 3, which engages said wick" (as defined by the Examiner) is clearly not the equivalent of the starter bump of the present invention, which is present at the top of the fuel element in close proximity to the wick so as to provide liquid fuel to the wick when a flame is applied to the wick to start the candle. In Oesterle *et al.*, the purpose of the *projection 3*, which extends *downwardly in the bottom of the votive candle*, is to engage the tube 9, for assurance of proper positioning. When properly positioned, the flame on wick 6, which is maintained in its proper position by the tube 9, comes into contact with wicking 13 in the base of the tube, *at the conclusion of its burning*, so as to assure that all of the melted wax is burned, in order to leave a clean cup containing no remains of the previous candle when a new candle is put in place. There is a clear distinction between a bump at the top surface of a candle which provides fuel for the start up of the wick, and a protrusion or projection in the bottom surface of a candle which helps to position

the candle so as to burn the last remaining wax from the candle before extinguishing. Accordingly, Applicants have now amended Claim 16 so as to recite that the starter bump is on the top surface of the fuel element (as opposed to in the bottom, as in the reference) and is present for the purpose of providing ease of lighting said wick. Since neither of these specified limitations is present, taught, or suggested by Oesterle *et al.*, it is submitted that the rejection of Claims 16 and 17 as anticipated by Oesterle *et al.* is without merit.

The Examiner has further rejected Claims 1-9, 12, 13, and 18-20 as obvious in view of Oesterle *et al.*, under 35 USC 103(a). The Examiner states that in the embodiments of Figures 5-8, the reference discloses the invention substantially as claimed with the exception of the disk being concave, which is taught in Figures 1-4. The Examiner takes official notice that the use of solid fuels in candles was well known to one of skill in the art at the time of the invention, with which Applicants concur. The Examiner then states that the structure of Claims 12 and 13 would be obvious to one skilled in the art, in view of the Oesterle *et al.* reference, and that the properties or functions recited in said Claims would be inherent. Reconsideration by the Examiner is requested, in light of the amendment of the Claims of this application, and the remarks which follow.

While not in agreement with the Examiner relative to the merits of the Oesterle *et al.* teachings, in order to expedite prosecution of this application Applicants have herewith amended Claim 1 so as to add the recitation of the presence of conductive elements selected from the group consisting of lobes and wick holders with fins, cancelled Claim 4, amended Claim 5 so as to change its dependency to Claim 1, amended Claims 7 and 12 so as to add the recitation that the heat conductive elements are selected from the group consisting of lobes and wick holders with fins, cancelled Claim 9, changed the dependency of Claims 10 and 11 so as to be dependent upon Claim 8, cancelled Claim 13, and changed the dependency of Claims 14 and 15 so as

to be dependent upon Claim 12. Claim 16 has been amended as set forth herein above, and Claim 18 has also been amended to recite the presence of conductive elements selected from the aforesaid group, while Claim 20 has been cancelled. In light of the Examiner's indication of Allowable Subject Matter in those original Claims which contained the above identified recitations, it is submitted that all Claims as now amended are allowable.

Relative to the Oesterle *et al.* reference, Applicants offer the following comments. Claims 1-9, 12-13, and 18-20 stand rejected under 35 USC 103(a) as unpatentable over Oesterle *et al.* The Examiner recites Figures 5-8 of the reference as disclosing the invention substantially as claimed with the exception of the disk being concave. The Examiner further indicates that the disk is disclosed as being concave in Figures 1-4, and that it would be obvious to employ the concave disk of Figures 1-4 in the embodiment of Figures 5-8. The Examiner further takes notice that the use of solid fuels was well known to those skilled in the art, thus encompassing those Claims of the application reciting such a limitation within the rejection, and that the use of specific metals for the heat plate rather than the general recitation of a metal disclosed by the reference is a matter of design choice, thus encompassing Claims 19 and 20 within the rejection under 35 USC 103(a). Applicants take exception to the Examiner's interpretation and application of the Oesterle *et al.* reference, and submit that all Claims remaining in this application as amended are neither taught nor made obvious by said reference.

First, it must be noted that the Oesterle *et al.* patent is specifically related to votive candles, for use in glass cups, wherein a specific adapter is utilized to support the wick of the votive candle and to assure that all of the wax is burned prior to insertion of another votive candle into the glass cup. The adapter of the reference is a heat conductive metal disk with a centrally protruding tube adapted to engage a recess in the candle so as to hold the wick in an upright position until the wick has completely

burnt out. Thus, the wick, 6, which is specified by patentee as being completely consumed (column 2, lines 31-32) is an integral part of the candle or fuel element, and "the wick 13" referred to by the Examiner, is specifically set forth by the patentee as being packed into the bottom of tube 9, and is referred to by patentee as a permanent wicking material into which the last of the wax remaining drains to be burnt after the wick, 6, has burnt out (Column 2, lines 39-47). Thus, the wick referred to by the Examiner is present in the patented adapter, rather than in the candle per se, for purposes of eliminating any melted wax residue in the container cup after the conventional consumable wick is gone. This is clearly distinguished from the conventional consumable wick, encompassed within the fuel element, employed in the present invention. Moreover, the container of the patentee is specified as glass or plastic, and is to be protected from the heat of the burning candle, so as to protect against breakage (Column 1, lines 23-25 and 34-39, and Column 2, lines 36-39), whereas the purpose of the present invention is to cause heat transfer to a heat conductive container so as to more rapidly melt the fuel element. In addition, the adapter of the patentee comprises a heat conductive disk, which may be concave, as indicated by the patentee and the Examiner, but which is not a container capable of retaining the fuel element by itself. The adapter is necessarily employed in conjunction with a glass or plastic container, as previous set forth, clearly indicating that the purpose of the adapter is not to rapidly melt the solid fuel element as set forth in the present application, but to retain in position a solid candle element, shaped so as to cooperatively engage the adapter. In the present invention the solid fuel element engages a heat conductive element of the container itself, in such a manner that heat from the burning wick is conducted to the heat conductive container so as to cause formation of a heated pool of liquefied fuel. The adapter of the patentee is clearly incapable of retaining a heated pool of liquefied fuel, and is present for an entirely different purpose.

Whereas the Examiner has equated the heat conductive concave disk of the patentee with the configured container of Applicants, there is a clear distinction between a heat conductive container and a metal disk which is to be placed within a non-conductive container. This is particularly the case when the disk is not designed to melt the fuel element while the container of the present invention is specifically configured so as to accomplish this goal as rapidly as possible, either as a result of the shape of the container (page 9, lines 1-11, and Figures 1 and 2 of the instant application), or by acting cooperatively with heat conductive elements which are provided to absorb heat from the flame upon the wick of the burning candle and transmit it to the container (Figures 3 through 9, and the extensive discussion thereof throughout the specification). Thus, the concept of the Applicants' invention is entirely different than that of the patent, which neither teaches nor makes obvious the candle set forth in the independent Claims of this application, and those Claims dependent thereupon. Accordingly, it is submitted that said Claims 1-3, 5-8, 10-12, and 14-19, the Claims remaining in the application after amendment, are clearly patentable over the Oesterle *et al* reference, and an early indication thereof is solicited.

Further, while the Examiner has not rejected Claims 16 and 17 as obvious over Oesterle *et al*, electing to reject these Claims as anticipated by the reference under 35 USC 102, Applicants believe the distinctions set forth above are also to be seen relative to said Claims, drawn to a solid replacement fuel element containing a wick. Clearly, as previously argued, the fuel element of Oesterle *et al*, a votive candle, does not comprise a starter bump. See the Figures of said reference, and the disclosure thereof at Column 2, line 6, *et seq.*, and all Claims thereof. Accordingly, Applicants submit that Claims 16 and 17 are neither anticipated, taught, nor made obvious by the reference, and an indication of the allowability of said Claims 16 and 17 is solicited.

With respect to Claims 18 - 20, also rejected as obvious over Oesterle *et al*, Applicants believe that all of the distinctions presented above are equally applicable to

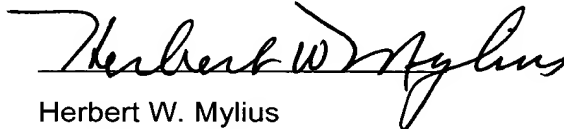
these Claims, which relate to a melting plate fuel holder. Moreover, Applicant has amended independent Claim 18 to recite the presence of a heat conductive element. Moreover, in light of the Examiner's previous indication that Claims 10, 11, 14, and 15 contain allowable subject matter, it is believed that Claims 18 and 19 (which have similar limitations) are now in condition for allowance, and an early indication thereof is solicited.

In summary, it is submitted that the reference cited fails, either singly, or in conjunction with any reference of record, to teach or to make obvious the invention set forth in claims 1-3, 5-8, 10-12, and 14-19 of the present application, the only claims remaining after entry of the presently submitted amendment. Accordingly, an early notice of allowance of all claims pending in the present application is warranted and solicited

Respectfully submitted,

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Version of Amendment with Markings to Show Changes Made

In accordance with 37 CFR 1.121(c)(1)(iii), the following constitutes a marked-up version of the Claims amended in the present AMENDMENT, indicating the changes made in the Claims as amended

1 (Amended). A candle comprising, in combination, a fuel element comprising a solid fuel, a wick at which said fuel may be burned to produce heat, a heat conductive container for said fuel element whereby said heat may be transported so as to melt said solid fuel, wherein said container is configured so as to cause the flow of melted fuel to said wick, and said heat conductive container further comprises a heat conductive element selected from the group consisting of lobes and wick holders with fins, by which heat is conducted to said container from a flame upon said wick.

5 (Amended). The candle of Claim [4] 1, wherein said heat conductive element cooperatively engages said fuel element.

7 (Amended). A melting plate candle comprising, in combination, a meltable solid fuel, a consumable wick, a heat conductive base upon which said fuel rests, and a heat conductive element[s], selected from the group consisting of lobes and wick holders with fins, by which heat is conducted to said base from a flame upon said wick, whereby a pool of heated liquid fuel is created, wherein said heat conductive base is configured so as to cause the flow of said heated liquid fuel to said wick for combustion, and said base and said element[s] are configured so as to cooperatively engage said fuel.

10 (Amended). The candle of Claim [9] 8, wherein said heat conductive element is a lobe.

11 (Amended). The candle of Claim [9] 8, wherein said heat conductive element is a wick holder with fins.

12 (Amended). A melting plate candle comprising a replaceable fuel element and wick, a fuel holder comprising a heat conductive melting plate, and at least one heat conductive element to collect heat from a flame at said wick and conduct said heat to said melting plate to thereby melt said fuel and form a pool of liquid fuel on the surface of said melting plate, wherein said fuel holder is configured to position and engage said fuel on said melting plate for rapid melting, said heat conductive elements are selected from the group consisting of lobes and wick holders with fins, and said melting plate is shaped so as to cause said pool of liquid fuel to flow to said wick, and the temperature of said pool of liquid fuel exceeds a temperature of about 180° F. at a point about 10 mm from said wick, and about 160° F at a point about 20 mm from said wick.

14 (Amended). The candle of Claim [13] 12, wherein said heat conductive element is a lobe.

15 (Amended). The candle of Claim [13] 12, wherein said heat conductive element is a wick holder with fins.

16 (Amended). A solid replacement element for a melting plate candle fuel holder, said element comprising a consumable wick and a solid fuel selected from the group consisting of gels and candle waxes, configured to cooperatively engage said fuel holder, and having a starter bump on the top surface thereof positioned so as to engage said wick for ease of lighting said wick.

18 (Amended). A melting plate fuel holder comprising a heat conductive container for a fuel element comprising a combustible wick, said container configured so as to engage and melt said solid fuel element and to cause the flow of melted fuel to said wick, said heat conductive container further comprising conductive elements selected from the group consisting of lobes and wick holders with fins, by which heat is conducted to said container from a flame upon said wick.